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9
10 **IN THE UNITED STATES DISTRICT COURT FOR THE**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 **UNITED STATES OF AMERICA,**

14 **Plaintiff,**

15 **v.**

16 **DIGNA ROLDAN GARRETT,**

17 **Defendant.**

No. CR-08-0678-DLJ

PLEA AGREEMENT

18
19 I, DIGNA ROLDAN GARRETT, and the United States Attorney's Office for the
20 Northern District of California hereafter ("government") enter into this written plea agreement
21 ("Agreement") pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

22 The Defendant's Promises

23 1. I agree to plead guilty to Counts 1-5 of the captioned information charging me
24 with filing a false tax return in violation of 26 U.S.C. § 7206(1). I agree that the elements of the
25 offense are as follows: (1) I knowingly made and subscribed to an income tax return that
26 contained false information as to a material matter; (2) I knew this information was false; (3) the
27 return contained a written declaration that it was being signed subject to the penalties of perjury;
28 and (4) in making and filing the tax return, I acted willfully.

- 1 a. Maximum prison sentence 3 Years
2 b. Maximum fine \$250,000
3 c. Maximum supervised release term 1 year
4 d. Mandatory special assessment \$100
5 e. Restitution \$138,784.17, plus statutory interest

6 I understand that, because I am pleading guilty to more than one count, the Court may order
7 the sentences on those counts to run consecutively

8 2. I agree that I am guilty of the offenses to which I will plead guilty, and I agree that
9 the following facts are true:

10 A. I am a 60 year old resident of Hayward, California and a naturalized United States
11 citizen, I was born in the Philippines, and migrated to the United States.

12 B. I was the president of Friendly Available Service Today Corporation ("FAST"), a
13 nursing "temp" agency, since 1993. I operated my business as a subchapter C corporation in
14 2002, and as a subchapter S corporation in 2003 and 2004.

15 C. I knowingly and intentionally signed and subscribed to false U.S. Corporate
16 Income Tax Returns for tax years 2002, 2003 and 2004, which I knew were not true and correct
17 as to the corporation's gross receipts and employee business expenses. These tax returns
18 contained a written declaration that the returns were made and subscribed to under the penalties
19 of perjury.

20 D. For the years 2002, 2003, and 2004, I knowingly and willingly under-reported
21 corporate gross receipts of \$443,246.93, \$215,676.40, and \$458,295.80, respectively from FAST.
22 During the same years I knowingly and willfully under reported corporate employee expenses of
23 \$355,040.00, \$228,837.00, and \$418,022.00, respectively from FAST. My failure to report a total
24 of \$1,117,219.13 of under-reported corporate gross receipts, and \$1,001,899.00 of under-reported
25 corporate employee expenses, for the three years resulted in a total tax loss of \$284,345.17, made
26 up of income tax loss \$29,722.75, and employment tax loss of \$254,622.42.

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1 E. I knowingly and intentionally signed and subscribed to false U.S. Individual
2 Income Tax Returns for tax years 2003 and 2004, which I knew were not true and correct as to
3 the total income from FAST. These tax returns contained a written declaration that the returns
4 were made and subscribed to under the penalties of perjury.

5 F. I knowingly treated some of my employees as contractors to avoid the related
6 payroll taxes for those employees even though I knew it was wrong to do so.

7 G. After I filed these fraudulent tax returns the IRS Revenue Agent began a civil
8 employment tax audit of the corporate tax returns.

9 H. Before I found out that the IRS Revenue Agent had summoned the company's
10 bank records I altered FAST's 2002 and 2003, ledgers and cancelled checks in order to hide
11 payments to employees and presented those altered company documents to the IRS Revenue
12 Agent.

13 I. I lied to the IRS Revenue Agent when I said that I used business ledgers to record
14 client payments and that these ledgers were used to calculate the corporation's gross receipts and
15 employee expenses. I maintained for my record-keeping only a list of clients; I did not record all
16 of the fees I received from my clients. I did not keep a formal set of books and records regarding
17 my true business income that should have been reported on the corporate returns. When it came
18 time to prepare the corporate tax returns, I concealed the full extent of FAST's gross receipts and
19 employee expenses and did not provide my tax preparer with the correct documents to properly
20 prepare the previously stated tax returns.

21 J. After I discovered that the IRS summoned my bank records, I amended FAST's
22 2002 and 2003 returns because the original returns which I filed for those years concealed
23 FAST's true income so that I could avoid the additional tax liability which was owed by me if I
24 reported all of the business' gross receipts to the IRS.

25 K. Even after amending the 2002 and 2003 returns with the corrected income
26 because of the initial IRS audit, I continued to fraudulently include personal expenses with the
27 reported business expenses.

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1 L. Even after amending the 2002 and 2003 returns because of the initial IRS civil
2 audit, I did not amend my 2004 tax return to reflect the actual amount of income because the IRS
3 Revenue Agent was not auditing my 2004 return.

4 M. I caused my corporate tax returns for 2002, 2003, and 2004 to omit a significant
5 amount of gross receipts and employee expenses. In preparing my corporate tax returns, I
6 intentionally under-reported FAST's gross receipts and employee expenses to avoid payment of
7 my true tax liabilities.

8 N. I continued to hide income from the IRS even after amending the 2002 and 2003
9 corporate returns. On my 2004 corporate and individual income tax returns, which I filed after I
10 amended the 2002 and 2003 returns, I under-reported the corporate business income by
11 \$458,295.80, and under-reported corporate employee expenses by \$418,022.00.

12 O. Throughout the Internal Revenue Services investigation I attempted to conceal my
13 income and activities from the IRS in an attempt to avoid detection. I used the money from the
14 scheme for my personal use and to pay employees expenses under-the-table to avoid paying
15 payroll taxes.

16 P. I did not establish a bank account to be exclusively used for business purposes.
17 Instead, I had 5 corporate and personal bank accounts into which I deposited client receipts.
18 When I received a check from a client, I either cashed or deposited it. I deposited cash and checks
19 from my clients into personal bank accounts. I had control over my bank accounts and made
20 regular deposits of gross receipts from my company that amounted to significantly more than the
21 gross receipts reported on my corporate tax returns.

22 Q. With some of the money that I diverted from the company to my personal bank
23 accounts, I purchased luxury items including a Mercedes ML, purses, shoes, clothes and trips to
24 Las Vegas, Nevada and the Philippines. Most of the diverted funds, however, were used to pay
25 employees under-the-table.

26 3. I agree to give up all rights that I would have if I chose to proceed to trial,
27 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
28 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise

any other Fourth or Fifth Amendment claims; to any further discovery from the government and to pursue any affirmative defenses and present evidence.

4. I agree to give up my right to appeal my conviction(s), the judgment, and orders of the Court. I also agree to waive any right I may have to appeal my sentence, including any orders relating to restitution.

5. I agree to waive any right I may have to file any collateral attack on my convictions or sentence, including a petition under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, or motion under 18 U.S.C. § 3582, at any time in the future after I am sentenced, except for a claim that my constitutional right to the effective assistance of counsel was violated.

6. I agree not to ask the Court to withdraw my guilty plea(s) at any time after it is they are) entered, unless the Court declines to accept the sentence agreed to by the parties. I agree that the government may withdraw from this Agreement if the Court does not accept the agreed upon sentence set out below. I agree that if the Court does not accept the agreed upon sentence set out below, the statute of limitations shall be tolled from the date I signed the plea agreement until the date the Court does not accept the plea agreement.

7. I agree that my sentence should be calculated pursuant to the Sentencing Guidelines. I understand that the Court, while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also agree that the Sentencing Guidelines range will be calculated as follows and that I will not ask for any other adjustment to or reduction in the offense level or for a downward departure from the Guidelines range:

- | | | |
|----|---|--------------|
| a. | Base Offense Level, U.S.S.G. § 2T1.1 and 2T4.1: | 18 |
| c. | Amount of loss: | \$284,345.17 |
| d. | Acceptance of responsibility: | -3 |
| e. | Adjusted offense level | 15 |

8. I agree that an appropriate disposition of this case, under the Sentencing Guidelines and 18 U.S.C. § 3553(a), is as follows: Sentencing Guideline level 15 (18-24 months of imprisonment); 1 year of supervised release (with conditions to be fixed by the Court); \$4,000

1 to \$40,000 fine, \$500 special assessment; and restitution of \$138,784.17 (\$284,345.17 -
2 \$145,561 subsequent payment), plus statutory interest. I agree that I will make a good faith effort
3 to pay any fine, forfeiture or restitution I am ordered to pay. Before or after sentencing, I will,
4 upon request of the Court, the government, or the U.S. Probation Office, provide accurate and
5 complete financial information, submit sworn statements and give depositions under oath
6 concerning my assets and my ability to pay, surrender assets I obtained as a result of my crimes,
7 and release funds and property under my control in order to pay any fine, forfeiture, or restitution.
8 I agree to pay the special assessment at the time of sentencing.

9 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
10 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
11 release (if any); not to intentionally provide false information to the Court, the Probation Office,
12 Pretrial Services, or the government; and not to fail to comply with any of the other promises I
13 have made in this Agreement. I agree that, if I fail to comply with any promises I have made in
14 this Agreement, then the government will be released from all of its promises in this Agreement,
15 including those set forth in paragraphs 12 through 14 below, but I will not be released from my
16 guilty pleas.

17 10. I agree not to commit or attempt to commit any crimes before sentence is imposed
18 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
19 release (if any); intentionally provide false information to the Court, the Probation Office,
20 Pretrial Services, or the government; or fail to comply with any of the other promises I have
21 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
22 Agreement, then the government will be released from all of its promises below, but I will not be
23 released from my guilty plea.

24 11. I agree that this Agreement contains all of the promises and agreements between
25 the government and me, and I will not claim otherwise in the future.

26 12. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
27 District of California only, and does not bind any other federal, state, or local agency.

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1 The Government's Promises

2 13. The government agrees to move to dismiss any open charges pending against the
3 defendant in the captioned indictment at the time of sentencing.

4 14. The government agrees not to file or seek any additional charges against the
5 defendant that could be filed as a result of the investigation that led to the captioned indictment.

6 15. The government agrees to recommend the Guidelines calculations set out above.

7 The Defendant's Affirmations

8 16. I confirm that while I considered signing this Agreement, and at the time I signed
9 it, I was not under the influence of any alcohol, drug, or medicine.

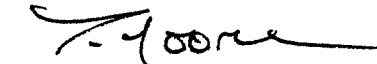
10 17. I confirm that my decision to enter a guilty plea is made knowing the charges that
11 have been brought against me, any possible defenses, and the benefits and possible detriments of
12 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
13 one coerced or threatened me to enter into this agreement.

14 Dated: OCT 3 '08


DIGNA ROLDAN GARRETT
Defendant

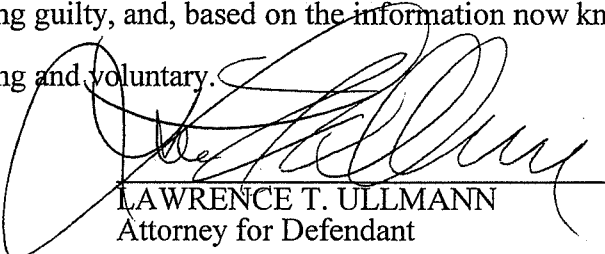
16 JOSEPH P. RUSSONIELLO
17 United States Attorney

18 Dated: 10-3-8


THOMAS MOORE
Assistant United States Attorney
Chief, Tax Division

21 I have fully explained to my client all the rights that a criminal defendant has and all the
22 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
23 and all the rights she is giving up by pleading guilty, and, based on the information now known
24 to me, his decision to plead guilty is knowing and voluntary.

25 Dated: 10/3/08


LAWRENCE T. ULLMANN
Attorney for Defendant